



Congress of the United States  
House of Representatives  
Washington, DC 20515-0906

**To: GOP Colleagues**  
**From: Congressman Chip Roy [TX-21]**  
**Date: February 22, 2023**  
**Re: Border Security Policy and Legislation**

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House Republican Colleagues –

As we consider important border security legislation, there has been a great deal of confusion about both the goal and the substance of a number of proposals that are central to our efforts to find solutions to the border crisis harming Americans, migrants, and our national security. Specifically, there has been much debate – both internally and externally – about H.R. 29, the Border Safety and Security Act, as well as questions surrounding overall efforts to secure our southern border.

Please consider the following summary of H.R. 29 for clarification:

**H.R. 29, the Border Safety and Security Act:**

H.R. 29 is a three-page bill designed to require the Secretary of Homeland Security (DHS) to enforce our **current laws**. This bill simply requires the Secretary to detain any migrant claiming asylum until his or her claim has been adjudicated ([this is current law](#)), or be turned away similar to the current authority provided by statute [42 U.S. Code § 265](#), commonly known as “Title 42.” H.R. 29 also provides for the Secretary to use [current law](#) that allows for placing migrants in a program similar to the Migrant Protection Protocols, also known as “Remain in Mexico,” if needed. This bill will simply prevent the Secretary of DHS from mass releasing migrants into the U.S.

H.R. 29 is not “the Texas Border Plan,” however [it is a part](#) of the Texas Border Plan.

**Pillars of a Secure Border:**

As outlined by the Texas Border Plan, in order to secure the border of the United States, there are a number of reforms needed. These reforms can be roughly broken down into four categories: 1) Physical Border Infrastructure, 2) Border Enforcement Policy Changes, 3) Interior Enforcement, and 4) Targeting of Cartels. These four pillars are distinctly different – rightfully – from “immigration” reforms, which naturally deal with the broader issues of future immigration and the status of those residing in the United States. However, *illegal* immigration and border security are intertwined. To see a roadmap for all four of these categories, I would encourage you to review, among other resources, the Texas Border Plan, available at [Roy.house.gov](#).

***By far the most important of the four border security requirement categories is “Border Enforcement Policy Changes” which is necessary to manage the current crisis.*** These necessary policy changes refer to the policies of the current administration regarding how illegal immigrants are being processed – specifically, those policies that provide for “encountering and releasing” migrants who illegally cross our border.

### **Why H.R. 29 is an important bill:**

Current law a) requires the Secretary to maintain [operational control](#) of the border. Operational control is defined as preventing “unlawful entries into the United States, including entries by terrorists, other unlawful aliens, instruments of terrorism, narcotics, and other contraband,” b) requires aliens seeking entry into the U.S. to [present valid entry documents](#), and c) permits asylum or parole. Aliens seeking asylum are required to be detained while the claim [is being adjudicated](#) and parole is allowed only on a [“case-by-case” basis](#).

***These are our laws. Whether one agrees with them as a matter of policy or not, these are the laws on the books, and it is imperative that we use all of the tools at our disposal to require DHS to enforce them. That is what H.R. 29 will do.***

Today, Secretary Mayorkas’s policies contradict the laws Congress has created in order to maintain safety and security at our border. He is simply NOT doing his job, and that is the fundamental issue at hand. In clear defiance of our laws, the administration is mass releasing illegal immigrants encountered at our southern border – leading to this current crisis. Secretary Mayorkas has released nearly 1.7 million illegal aliens encountered along the southwest border into American communities since he and President Biden took office. This means we have released more illegal immigrants into our communities than the population of at least [11 individual states](#).

Indeed, the administration is “processing” aliens into the interior as quickly as it can. This transcends both the spirit and the letter of the law. Processing mass numbers of aliens into the U.S. before fully adjudicating their claim for asylum has led to the incredible numbers of illegal immigrants we have witnessed each month, leaving Customs and Border Protection (CBP) incapable of doing its main duty of protecting our borders.

Record numbers of migrants have and will continue to surge our border because the message has been delivered – and reinforced by DHS actions – that if a foreign national comes to the United States and claims asylum, he or she will be released immediately into the U.S., regardless of the legitimacy of the claim. To say this is overwhelming Border Patrol agents is an understatement. It is even [overwhelming cities like New York](#). Processing 8,000 migrants a day at the border – the current daily levels – makes it impossible for agents to truly police the border – both at ports of entry and between.

### **The result?**

- Over 72,000 people were “poisoned” by Fentanyl in 2021.
- Last June, [53 migrants died](#) in a tractor trailer in San Antonio. This was the deadliest smuggling incident on U.S. soil.
- At least [853 migrants died crossing](#) the U.S. Mexico border in FY22. The International Organization for Migration, a United Nations agency, has called the southwest border the [“deadliest land crossing in the world.”](#)
- Small border counties foot the bill and experience the turmoil of dead migrants on ranches and county property. Brooks County, TX, even needed a [“mobile morgue”](#) for these bodies.
- Ranchers and land owners in border towns [“fear for their lives.”](#)
- Border Patrol agents are at constant risk of harm and death. For instance, one [agent](#) was “pushed, dragged and punched” by two Venezuelan migrants he caught crossing the southern border into Texas last fall. Other agents have died in [vehicular accidents](#) while chasing groups of illegal migrants.
- Roughly 1.3 MILLION gotaways since Biden took office, including people on the [terrorist watch list](#).

### **We Must Demand Policy Changes**

Policy changes are necessary if we actually want to secure the border. It is untrue that decisions about HOW we manage the flow of illegal migration fall outside of “border security.” Border security is inherently reliant

on CBP being able to do its job to enforce the laws, and this is inherently tied to whether CBP is overwhelmed by illegal immigration. Having a secure border does not solely mean physical infrastructure, gadgets, and technology – it means our border is in a state of being secure. Even if we build a wall – which we should finish – from the Gulf of Mexico to San Diego and give CBP all the resources they could ever need, the abuse of our asylum and parole laws will defeat the purpose of these enhancements and ultimately undermine our security.

Again, policy changes are required to secure the border. Even President Obama and then Secretary Jeh Johnson understood this. For example, in 2014 the Obama-Biden Administration [requested Congress](#) change the 2008 Trafficking Victims Protection Reauthorization Act (TVPRA), to allow UACs from non-contiguous countries who cross the border to be swiftly deported just as UACs from contiguous countries. This was in response to a massive UAC crisis the administration was facing. Similar to reforming TVPRA, H.R.29 would prevent mass influxes of UACs and targeting by cartels because both UACs from contiguous countries and non-contiguous countries would no longer be incentivized to make the dangerous journey to the border.

### Looking Ahead

In [H.R.4760, the Securing America’s Future Act of 2018](#), commonly known as “Goodlatte 1,” Republicans overwhelmingly embraced asylum reform, policy changes to protect unaccompanied children, and changes to “catch and release” policies such as those created by the Flores Settlement Agreement. These policy changes are reflected in [H.R.1901, the Stopping Border Surges Act](#) introduced by Andy Biggs in the 117<sup>th</sup> Congress. I support these proposals, and so do most Republicans.

But unlike other past border proposals, H.R. 29 doesn’t actually change the definition of asylum or credible fear or otherwise seek to “tighten it.” Again, I support these proposals, but instead, H.R. 29 simply seeks to make clear that the U.S. will follow **current law** which requires asylum seekers to be detained. Enforcing current law will naturally deter illegal immigrants that do not have a legitimate claim of asylum from taking the dangerous journey to our border. Further, H.R. 29 takes a page from the Title 42 playbook – which Republicans have vehemently supported – by allowing the Secretary to turn away illegal immigrants that DHS cannot detain for some reason. Providing for a “detain or turn-away” policy will ensure the Secretary does not release illegal immigrants into the interior. Illegal immigrants who do not have a legitimate claim to asylum will not take the dangerous journey to our border, ensuring CBP will not be overwhelmed. Further, preventing individuals that do not have a legitimate claim to asylum from making the journey to our southern border will help uphold the integrity of our asylum laws and will actually aid in ensuring those with legitimate claims are able to have their claims adjudicated quickly.

Importantly, H.R. 29 will prevent DHS from mass releasing migrants without doing anything that 1) isn’t already REQUIRED by current law, 2) isn’t already BEING USED under current law, or 3) isn’t already ALLOWED under current law. If we do not stop mass releases, we will always have too many people rushing our border to successfully claim any sort of security.

Sincerely,

A handwritten signature in black ink, appearing to read 'Chip Roy', with a stylized flourish at the end.

Chip Roy  
Member of Congress